

Application #10/014,820  
Amendment dated April 20, 2006

PATENT

**Remarks:**

In the Final Office Action mailed on September 20, 2005, Claims 1-29 were rejected. Applicants amend Claims 9, 12, 14, and 23 herein. Claims 1-29 are pending in the application. Claims 1-3, 5-7, and 10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Schloss et al. (U.S. Pat. No. 6,249,844) hereinafter referred to as *Schloss*. Claims 12-29 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hoyle (U.S. Pat. No. 6,141,010), hereinafter referred to as *Hoyle*. Claims 4 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Schloss* in view of Sloan (U.S. Pat. No. 6,179,205) hereinafter referred to as *Sloan*. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Schloss* in view of Challenger et al. (U.S. Pat. No. 6,507,891) hereinafter referred to as *Challenger*. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Schloss* and *Sloan* in view of *Hoyle*.

Applicants respectfully request reconsideration of the Application in light of the traversal provided below.

**35 USC 102 Schloss**

Claims 1-3, 5-7, and 10, stand rejected under 35 U.S.C. 102(e). Applicants traverse.

Applicants have amended Claim 1 to clarify the scope of the invention. Claim 1 is representative of the independent claims. Claim 1, as amended recites "identifying content for transmission by determining a plurality of characteristics of the content consisting of characteristics inherent to the content, relative to caching including at least one static characteristic of content indicative of content permanency, and independent of descriptors of the content, date stamps and/or file names associated with the content." Support for the amendment to Claim 1 is found, at least, on page 9.

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Anticipation under 35 U.S.C. 102(b) requires that each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP 2131, *citing, Verdegaal Bros. v Union Oil Co. of California*, 2 USPQ2d 1051,1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." MPEP 2131, *citing, Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *Schloss* does not meet that test.

*Schloss* fails to teach or suggest such a limitation because *Schloss* teaches examining a predetermined digital content description and not the characteristics of content. Amended Claim 1 specifically teaches identifying content .... "independent of descriptors of the content" to more clearly provide that the content identified for transmission is performed without using descriptors of the content. *Schloss* teaches a "fragment description table" and avoids a need to examine the content. *Schloss*' "fragment description table" cannot be deemed to be a teaching of identifying content .... "independent of descriptors of the content" where the content identified for transmission is performed without using descriptors of the content (Claim 1). Therefore, Claim 1 is not anticipated by *Schloss*. Claims 2-11 depend from Claim 1 and are also not anticipated by *Schloss* for at least the reason given in support of Claim 1.

### 35 USC 102 Hoyle

Claims 12-29 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Hoyle*. Applicants traverse the rejection. *Hoyle* also does not meet the requirement that each and every element of the claim be taught by the reference. Claim 12 has been amended to teach "reading a container, the container identifying content not to be distributed according to at least one characteristic of the content, identifying content for transmission by determining a plurality of characteristics of the content

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consisting of characteristics inherent to the content, relative to caching, and independent of descriptors of the content, date stamps and/or file names associated with the content, including at least one static characteristic of content indicative of content permanency, and including a determination of usefulness of the content to a user.” Support for the amendment is found in the Specification, Page 9. Claim 12 is allowable over *Hoyle* because *Hoyle* fails to teach or suggest a characteristic of content including “consisting of characteristics inherent to the content, relative to caching, and independent of descriptors of the content, date stamps and/or file names associated with the content, including at least one static characteristic of content indicative of content permanency” as stated in Claim 12. In particular, *Hoyle* teaches storing based on demographic information for targeted advertising and does not teach a determination of content permanency as required by Claim 12. See Col. 8, lines 30-63. In contrast, *Hoyle* teaches timed intervals for altering selected advertising. See Col 14, lines 38-45. Claim 13 depends from Claim 12 and is allowable for at least this reason.

Claim 14 has been amended to teach “reading a container, the container identifying content not to be distributed according to at least one characteristic of the content consisting of characteristics inherent to the content, relative to caching, and independent of date stamps and file names associated with the content.” Support for the amendment is found in the Specification, Page 9. Claim 14 is allowable over *Hoyle* because *Hoyle* fails to teach or suggest identifying content not to be distributed according to at least one characteristic of the content inherent to the content, relative to caching, and independent of date stamps and file names associated with the content. Specifically, *Hoyle* teaches a software application that is upgradeable automatically and does not teach or suggest caching as required in Claim 14. Claims 15 through 22 depend from Claim 14 and are allowable for at least this reason.

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Claim 23 has previously been amended to provide "a first instruction set operable with the processor to compare a container in the memory to determine whether content for transmission matches at least a subset stored in a second memory within a receiving device, wherein the subset is identified as static content previously cached in the receiving device and content previously identified as not to be transmitted to the receiving device," to more clearly provide that content previously identified as not to be transmitted and static content previously cached is identified in the subset. *Hoyle* teaches an automatically upgradeable software application that uses non-volatile data storage and a program to separate program modules, one for advertising and one for a software program. *Hoyle* does not address or even mention the word "cache" or a description of caching as required by Claim 23. Instead, *Hoyle* requires a version identifier, current names and version numbers to check to determine whether an application requires upgrading (Col. 20, lines 45-53). Accordingly, *Hoyle* does not teach or suggest "compare a container in the memory to determine whether content for transmission matches at least a subset stored in a second memory within a receiving device, wherein the subset is identified as static content previously cached in the receiving device and content previously identified as not to be transmitted to the receiving device" as required by Claim 23. Claims 24-29 depend from Claim 23 and are allowable with Claim 23 for at least this reason.

### 35 USC 103

Claims 4 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Schloss* in view of Sloan (U.S. Pat. No. 6,179,205) hereinafter referred to as *Sloan*. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Schloss* in view of Challenger et al. (U.S. Pat. No. 6,507,891) hereinafter referred to as *Challenger*. Claim 9

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stands rejected under 35 U.S.C. 103(a) as being unpatentable over Schloss and Sloan in view of Hoyle. Applicants traverse these rejections.

These claims all depend directly or indirectly from Claim 1. As noted above, Schloss does not teach or suggest "identifying content for transmission by determining a plurality of characteristics of the content consisting of characteristics inherent to the content, relative to caching including at least one static characteristic of content indicative of content permanency, and independent of descriptors of the content, date stamps and/or file names associated with the content." Sloan, Challenger and Hoyle also all fail to teach or suggest that element. Accordingly, Claim 1 is not obvious over Schloss, Sloan, Challenger, and Hoyle, taken singly or in any combination.

Claims 4, 11, 8, and 9 all depend from Claim 1, incorporate the limitations of Claim 1, provide further unique and non-obvious combinations, and are patentable over Schloss, Sloan, Challenger and Hoyle for the reasons given in support of Claim 1 and by virtue of such further combinations.

### CONCLUSION

The application is now deemed to be in condition for allowance and notice to that effect is solicited. It is submitted that all of the claims now in the application are allowable. Applicants respectfully request consideration of the application and claims and its early allowance. If the Examiner believes that the prosecution of the application would be facilitated by a telephonic interview, Applicants invite the Examiner to contact the undersigned at the number given below.

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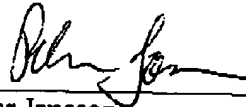
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Applicants respectfully request that a timely Notice of Allowance  
be issued in this application.

Respectfully submitted,

Date:

April 20, 2006

  
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